

STATE OF NEW YORK

7748--A

Cal. No. 564

2007-2008 Regular Sessions

IN ASSEMBLY

April 25, 2007

Introduced by M. of A. BRENNAN, LENTOL, V. LOPEZ, MAISEL, MARKEY, LANCMAN, HEVESI, BROOK-KRASNY, CLARK, COLTON, MILLMAN, ROSENTHAL, CAMARA, BENEDETTO, CYMBROWITZ, JOHN, PHEFFER, ROBINSON, COOK, DINOWITZ, PERRY -- Multi-Sponsored by -- M. of A. BING, GLICK, JACOBS, NOLAN, PERALTA, YOUNG -- read once and referred to the Committee on Cities -- passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the administrative code of the city of New York, in relation to safety requirements during excavation, insurance for construction or demolition operations and support of adjoining structures during excavation

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision b of section 26-229 of the administrative code
2 of the city of New York is amended to read as follows:
3 b. Protection of adjoining buildings. Whenever the safety of any
4 adjoining building is or may be affected by an excavation [~~not exceeding~~
5 ~~ten feet below the legally established curb level, it shall be the duty~~
6 ~~of the owner of such building to provide safe support for the building,~~
7 ~~provided such owner is afforded a license to enter and inspect the prop-~~
8 ~~erty where the excavation is to be made, and to perform such work there-~~
9 ~~on as may be necessary for such purpose; otherwise, such duty shall~~
10 ~~devolve upon the owner of the property where the excavation is to be~~
11 ~~made, who shall be afforded a similar license with respect to the~~
12 ~~adjoining property. If an excavation is to be carried more than ten feet~~
13 ~~below the legally established curb level, and the safety of any adjoin-~~
14 ~~ing building is or may be affected by such part of the excavation as~~
15 ~~exceeds ten feet below the legally established curb level], it shall be
16 the duty of the person causing such excavation to be made to provide
17 safe support for such building regardless of the depth of its founda-~~

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 tions, provided such person is afforded a license to enter and inspect
2 the adjoining building and property, and to perform such work thereon as
3 may be necessary for such purpose; otherwise, such duty shall devolve
4 upon the owner of the adjoining building, who shall be afforded a simi-
5 lar license with respect to the property where the excavation is to be
6 made.

7 (1) Such person shall support the vertical load of the adjoining
8 structure by proper foundations, underpinning, or other equivalent means
9 where the level of the foundations of the adjoining structure is at or
10 above the level of the bottom of the new excavation.

11 (2) Where the existing adjoining structure is below the level of the
12 new construction, provision shall be made to support any increased
13 vertical or lateral load on the existing adjoining structure caused by
14 the new construction.

15 (3) Where the new construction will result in a decrease in the frost
16 protection for an existing foundation below the minimums established in
17 subchapter eleven of chapter one of title twenty-seven, the existing
18 foundation shall be modified as necessary to restore the required frost
19 protection.

20 § 2. Section 27-1026 of the administrative code of the city of New
21 York is amended by adding a new subdivision (e) to read as follows:

22 (e) Insurance. The person or entity who obtains a permit for
23 construction or demolition operations shall, at his or her own expense,
24 procure and maintain for the duration of the operations, insurance of a
25 kind and in an amount specified by rule of the department, to insure any
26 and all adjacent property owner or owners and their lawful occupant or
27 occupants fully for all risks of loss, damage to property or injury to
28 or death of persons, arising out of or in connection with the perform-
29 ance of all work described in this article or article four of this
30 subchapter. Such person or entity shall submit proof of insurance to
31 the department when applying for a permit for construction or demolition
32 work.

33 § 3. Subdivision (b) of section 27-1031 of the administrative code of
34 the city of New York is amended to read as follows:

35 (b) Support of adjoining structures.

36 ~~[(1) EXCAVATION DEPTH MORE THAN TEN FEET. When an excavation is~~
37 ~~carried to a depth more than ten feet below the legally established curb~~
38 ~~level the] The person who causes [such] an excavation to be made shall,~~
39 ~~at all times and at his or her own expense, preserve and protect from~~
40 ~~injury any adjoining structures, the safety of which may be affected by~~
41 ~~such [part of the] excavation [as exceeds ten feet below the legally~~
42 ~~established curb level],~~ provided such person is afforded a license to
43 enter and inspect the adjoining buildings and property, and to perform
44 such work thereon as may be necessary for such purpose; otherwise, such
45 duty shall devolve upon the owner or owners of the adjoining building or
46 buildings, who shall be afforded a similar license with respect to the
47 property where the excavation is to be made.

48 ~~[a-]~~ (1) Such person shall support the vertical load of the adjoining
49 structure by proper foundations, underpinning, or other equivalent means
50 where the level of the foundations of the adjoining structure is at or
51 above the level of the bottom of the new excavation.

52 ~~[b-]~~ (2) Where the existing adjoining structure is below the level of
53 the new construction, provision shall be made to support any increased
54 vertical or lateral load on the existing adjoining structure caused by
55 the new construction.

1 ~~[e.]~~ **(3)** Where the new construction will result in a decrease in the
2 frost protection for an existing foundation below the minimums estab-
3 lished in subchapter eleven of this chapter, the existing foundation
4 shall be modified as necessary to restore the required frost protection.

5 ~~[(2) EXCAVATION DEPTH TEN FEET OR LESS. Where an excavation is carried~~
6 ~~to a depth of ten feet or less below the legally established curb level,~~
7 ~~the owner of the adjoining structure shall preserve and protect the~~
8 ~~safety of his or her structure provided such owner is afforded a license~~
9 ~~to enter and inspect the property where the excavation is to be made.]~~

10 § 4. This act shall take effect immediately.